

HOUSE No. 2250

By Mr. Speliotis of Danvers, petition of Theodore C. Speliotis and John Zavaglia for legislation to further regulate smoking in areas adjacent to public buildings and workplaces. Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO SMOKING NEAR PUBLIC BUILDINGS AND WORKPLACES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 270 of the General Laws as appearing in the 2004 Official Edition, is hereby amended by inserting after section 22 the following section:—

4 Section 22A. Smoking is prohibited within a presumptively reasonable minimum distance of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means. Owners, operators, managers, employers, or other persons who control a public building or workplace may seek to rebut the presumption that twenty-five feet is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or workplace is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public building or workplace and, therefore, the public health and safety will adequately be protected by a lesser distance.

22 Owners, or in the case of a leased or rented space the lessee or other person in charge, of a place shall prohibit smoking as appropriate under this section. Signs shall be posted conspicuously at each

25 building entrance. When violations occur, a warning shall first be
26 given to the owner or other person in charge. Any subsequent viola-
27 tion is subject to a civil fine of up to one hundred dollars. Each day
28 upon which a violation occurs or is permitted to continue constitutes
29 a separate violation.

30 Any person intentionally violating this section by smoking near a
31 public building or workplace, or any person removing, defacing, or
32 destroying a sign required by this section will be subject to a civil
33 fine of up to one hundred dollars. Any person passing by or through
34 a public building or workplace while on a public sidewalk or public
35 right of way will not be in violation. Local law enforcement agencies
36 shall enforce this section.